

Introduced by Senator Figueroa

February 5, 2003

An act to amend Section 9855.2 of the Business and Professions Code, relating to service contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 136, as introduced, Figueroa. Electronic and appliance repair dealers: service contracts.

Existing law, the Electronic and Appliance Repair Dealer Registration Law, regulates consumer warranties and the activities of service contractors. Existing law defines a "service contract" to mean a contract in writing to perform services relating to the maintenance, replacement, or repair of certain electronic and appliance items. Existing law requires a service contract seller to meet specified requirements in order to issue, sell, or offer for sale a service contract. Existing law provides that a violation of these provisions is a crime.

This bill would additionally require a service contract seller who provides a guarantee or warranty in conjunction with a service contract to disclose to the customer, in writing, the nature and extent of the guarantee or warranty and a clear explanation of coverage of the guarantee or warranty. Because this bill would place additional requirements on service contract sellers, the violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9855.2 of the Business and Professions
2 Code is amended to read:
3 9855.2. (a) A service contract seller shall not issue, sell, or
4 offer for sale a service contract unless he or she complies with one
5 of the following requirements:
6 (1) Files with the director the most recent annual report on
7 Form 10-K required by the Securities and Exchange Commission,
8 reflecting a net worth greater than the sum of the deferred revenues
9 from service contracts in force. If the service contractor is a foreign
10 corporation that files a comparable audited financial statement
11 with its home government or with the United States government,
12 the director may deem that statement an acceptable substitute for
13 Form 10-K.
14 (2) Obtains a service contract reimbursement insurance policy.
15 (3) Sells service contracts that are administered by a service
16 contract administrator who has obtained a service contract
17 reimbursement insurance policy covering the seller's service
18 contracts.
19 (4) Maintains and annually verifies to the director a funded
20 account held in escrow equal to a minimum of 25 percent of the
21 deferred revenues from the service contracts in force.
22 (b) A service contract administrator shall not administer
23 service contracts sold in this state unless a service contract
24 reimbursement insurance policy covering these service contracts
25 has been obtained.
26 (c) *A service contract seller who provides a "guarantee" or*
27 *"warranty" in conjunction with a service contract shall disclose*
28 *the following to the customer in writing:*
29 (1) *The nature and extent of the guarantee or warranty.*
30 (2) *A clear explanation in writing of what will and will not be*
31 *covered under the guarantee or warranty.*
32 (d) *This section shall not affect the ability of the director to*
33 *further define or clarify the requirements regarding a guarantee or*
34 *warranty provided by a service contract seller.*



1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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